

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/848,520	BERG ET AL.	
	Examiner Fred Ferris	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 1 June 2006.
2.  The allowed claim(s) is/are 1,2,5-7,9-13,15,17-20 and 22.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 6/1/06
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Fred Ferris  
FRED FERRIS  
PRIMARY EXAMINER  
TC 2128*

## DETAILED ACTION

1. *This Office Action is responsive to applicant's amendment filed 1 June 2006. Claims 1-2, 5-7, 9-13, 15, and 17-25 are currently pending in this application. Of these, claims 21, and 23-25 are now cancelled by the examiner amendment appearing below. Amended claims 1-2, 5-7, 9-13, 15, 17-20, and 22 have now been allowed over the prior art of record.*

## Response to Arguments

2. *Applicant's arguments filed 1 June 2006 have been fully considered.*

*Regarding applicant's response to 35 USC 101 and 103(a) rejections: The previous 35 USC 101 and 103(a) rejections are now withdrawn in view of the amendment to the claims and supporting arguments filed 1 June 2006, and the examiners' amendment of record appearing below.*

*Regarding applicants IDS submission: The supplemental information disclosure statement filed 1 June 2006 does not comply with 37 CFR 1.98(a)(3) because no specific publications have been referenced. It has been placed in the application file, but the information referred to therein has not been considered by the examiner.*

*Regarding applicant's declaration filed under 37 CFR 1.132: The declaration filed 1 June 2006 has been made of record. It include(s) statements which amount to an affirmation that the claimed subject matter functions as it was intended to function. This is not relevant to the issue of nonobviousness of the claimed subject matter and*

*provides no objective evidence thereof. See MPEP § 716. However, the claims as currently amended have now been distinguished over the prior art as noted below.*

#### **EXAMINER'S AMENDMENT**

3. *An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.*

*Authorization for this examiner's amendment was given in a telephone interview with Jeff Bamber on 18 August 2006.*

**Cancel claims 21 and 23-25.**

**Amend the specification as follows:**

*On page 12, line 21 of the specification delete the phase "a carrier wave" after the term "etc.)", and before the word "or".*

**Amend independent claim 17 with the following:**

*Add two additional limitations to claim 17 after the phrase "having a zero uptime;" by inserting the following:*

**analyzing said first system to determine failure modes;**

**calculating an uptime for each said failure mode;**

*before the phase:*

*"using said data to calculate a plurality of ..."*

**Amend dependent claim 18 with the following:**

*In line 2 insert the word “tangible” after the term “comprising a” and before the term “signal bearing”.*

*In line 3 change the word “executable” to “executed by a digital...”*

### **Allowable Subject Matter**

4. *Claims 1-2, 5-7, 9-13, 15, 17-20, and 22 are allowed over the prior art of record.*

*The following is an examiner’s statement of reasons for allowance:*

*Applicants are disclosing a computer simulation process for reliability and maintainability analysis of system failures based collected failure mode data representing a first system, and simulating the negative system effects by executing a reliability simulation on a second system. This has been disclosed in the prior art of record.*

*While these elements are individually disclosed in the prior art, the prior art of record does not meet the conditions as suggested in MPEP section 2132, namely:*

*“The identical invention must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an **ipsissimis verbis** test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).”*

*In particular, the prior art of record does not explicitly disclose the specific sequence of method steps relating collecting relevant failure mode data from a first system having a at least one false start event in combination with the event having a*

zero uptime, subsequently analyzing the first system to determine failure modes, calculating the uptime for each failure mode, parameterizing date for simulation and simulating a second system where the executing comprises the steps of determining whether the second system will have a false start event based on data collected from the first system, as required now by independent claims 1 and 17. (See: Figures 7 & 8, pages 13-19, for example)

The closest prior art uncovered during examination teaches certain limitations of the claimed invention as follows:

"A Quick Overview of ReliSoft's BlockSim": BlockSim is a Reliability and Maintainability simulator capable of performing a complete system analysis using reliability block diagrams (RBD's) for system definition and performs complex system analysis both analytically and through discrete event simulation. The BlockSim 1.0 program discloses analyzing a system where each defined block represents a component, assembly, or failure mode with multiple properties (i.e. parameters, see: bottom page 1) and further provides the capability to compute the uptime or downtime for each block. BlockSim calculates the uptime and downtime for each defined block. However, BlockSim does not explicitly disclose the specific sequence of method steps relating collecting relevant failure mode data from a first system having at least one false start event in combination with the event having a zero uptime, subsequently analyzing the first system to determine failure modes, calculating the uptime for each failure mode, parameterizing date for simulation and simulating a second system where the executing comprises the steps of determining whether the second system will have

*a false start event based on data collected from the first system, as required now by independent claims 1 and 17. BlockSim is silent as to an event having a zero uptime.*

*The features noted above relating to the specific combination and sequence of process steps and arrangement of device elements renders the claimed invention non-obvious over the prior art of record. Dependent claims 2, 5-7, 9-13, 15, 18-20, and 22 are deemed allowable as depending directly or indirectly from independent claims 1 and 17 respectively.*

*Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."*

### **Conclusion**

5. *Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 571-272-3700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached at 571-272-2279. The Official Fax Number is: (703) 872-9306*

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